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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,499	10/13/2000	Christopher C. Winslade	0020	1146

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Christopher C. Winslade
500 West Madison St. 34th Floor
Chicago, IL 60661

EXAMINER

RETTA, YEHDEGA

ART UNIT	PAPER NUMBER
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3622

MAIL DATE	DELIVERY MODE
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03/04/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/687,499	Applicant(s) WINSLADE ET AL.	
	Examiner Yehdega Retta	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to amendment filed December 28, 2009. Claims 34 and 35 have been amended. Claims 34-39 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 34 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Meyer et al. (US 6,915,271).

Regarding claim 34, Meyer teaches offering by a second system of a second party (merchants) items for sale at a sales price amount, *wherein the item for sale can be identified by a customer* (see fig. 31-35 col. 39 line 55 to col. 41 line 22); providing a portal containing a plurality of promotions wherein a buyer can search for a promotion from the first party associated with the item for sale; *Wherein the customer can search for the promotion after the customer has identified the time for sale*, the promotion having a promotion amount (fig. 19-34); receiving, by the second system (merchants), online purchase request from customer for at least one item (buy now) (see col. 40 line 64 to col. 41 line 40); responding, by the second system, to the online purchase request by collecting from the customer a purchase amount corresponding to the sales price amount less the promotion amount (see col. 41 line 66 to col. 42 line 25) and electronically communicating, by the second system to the first system, an indication regarding

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the collection from the customer of the purchase amount (see col. 40 line 64 to col. 41 line 40, col. 42 line 1-64). The items of Meyer that are sold at the merchants (e.g. at Sony, Marriott, Target, amazon.com etc) can be identified by the customer before the customer browses at the coupon site. The customer can also browse the coupon site after identifying an item at the merchants to see if there is any coupon at the coupon site, or the customer can directly go the coupon site, click at the hyperlink to link to the merchant site and purchase the product using the discount.

Regarding claim 35, Meyer teaches offering, by a second system of a second party, an item for sale online at a sales price amount (see fig. 33 and 35 also col. 40 line 64 to col. 41 line 40), the item for sale having associated with it, by the second system of the second party, a promotion from the first party, the promotion having a promotion amount (see fig. 33 and 35 (\$5 off, Free Beanie Baby with Toy Purchases etc); receiving, by the second system, an online purchase request from a buyer for the item for sale (see col. 40 line 64 to col. 41 line 21 and col. 42 lines 1-36) responding, by the second system, to the online purchase request by collecting from the buyer a purchase amount corresponding to the sales price amount less the promotion amount (see col. 42 lines 1-36); and causing, by the second system, shipment by the second party of the item for sale to the buyer (see col. 41 lines 22-40).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer et al. (US 6,915,271) in view of Murphy et al. (US 2002/0052778 A1).

Regarding claims 36-38, Meyer teaches offering, by a second system of a second party, an item for sale online (see fig. 33 & 35 isavings), wherein the item has been acquired by the second party from the first-party (customer purchasing the items at the second party (promotional site)(see col. 40 line 67 to col. 41 line 2), the item for sale having associated with it a promotion from the first party, the promotion having a promotion amount (see fig. 33 and 35 (\$5 off, Free Beanie Baby with Toy Purchases etc); receiving, by the second system, an online purchase request from a buyer for the item for sale (see col. 40 line 64 to col. 41 line 21 and col. 42 lines 1-36); receiving, by the second system, an online purchase request from a buyer for the item for sale (see col. 40 line 64 to col. 41 line 21 and col. 42 lines 1-36); responding, by the second system, to the online purchase request by collecting from the buyer a purchase amount corresponding to a sales-price amount less the promotion amount (see col. 42 lines 1-36). Meyer does not teach collecting, by the second system, a service fee from the buyer, it is taught in Murphy (see [0015]-[0018]). It would have been obvious to one of ordinary skill in the art at the time of the invention to collect fee from the buyer as in Murphy in order to demonstrate the user's level of interest to the manufacturer or charge for the service provided by the second party.

Claims 36 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer et al. (US 6,915,271) in view of Holda-Fleck (US 5,729,693).

Regarding claims 36 and 39, Meyer teaches offering, by a second system of a second party, an item for sale online (see fig. 33 & 35 isavings), wherein the item has been acquired by the second party from the first-party (customer purchasing the items at the second party

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(promotional site)(see col. 40 line 67 to col. 41 line 2), the item for sale having associated with it a promotion from the first party, the promotion having a promotion amount (see fig. 33 and 35 (\$5 off, Free Beanie Baby with Toy Purchases etc); receiving, by the second system, an online purchase request from a buyer for the item for sale (see col. 40 line 64 to col. 41 line 21 and col. 42 lines 1-36); receiving, by the second system, an online purchase request from a buyer for the item for sale (see col. 40 line 64 to col. 41 line 21 and col. 42 lines 1-36); responding, by the second system, to the online purchase request by collecting from the buyer a purchase amount corresponding to a sales-price amount less the promotion amount (see col. 42 lines 1-36). Meyer does not teach collecting, by the second system, a service fee from the buyer, it is taught in Holda-Fleck (see col. 3 lines 23-44). It would have been obvious to one of ordinary skill in the art at the time of the invention to collect fee from the first party, as in Holda-Fleck, in order to charge for the service provided by the second party, as taught in Holda-Fleck.

Response to Arguments

Applicant's arguments filed January 16, 2009 have been fully considered but they are not persuasive.

Response to Arguments

Applicant's arguments filed December 28, 2009 have been fully considered but they are not persuasive.

Applicant asserts that the "buy now" feature of the relied upon portion of Meyer does not disclose such a portal wherein a customer can search for a promotion from the first party associated with the item for sale after the customer has identified the item for sale.

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Applicants argues that to the extent an item is argued to be identified by a customer in the cited portion of Meyer, that no subsequent searching for promotions is provided for.

As indicated above since the merchants products are available for sale online at the merchants website, the items are offered for sale and the items can be identified by a customer, and after the customer identifies the item the customer can browse the promotional website.

Meyer also teaches that the redemption display may be in a separate display window (e.g., a popup) or in the same window previously being viewed.

Regarding claims 35 and 36 applicant argues that the claim 35 expressly requires that the party offering the item for sale online at a sales price (the second party) is different from the party which the promotion is from (the first party). Examiner respectfully disagrees. The claim does not indicate that the second party is different than the first part. However Meyer also teaches that a service provider, the entity that runs the incentive system and the promotion sponsor may be a chamber of commerce, a credit card company ... (see col. 16 lines 47-67). Meyer also teaches that the promotional sponsors may use a promotional agency to run the actual promotion (see col. 17 lines 15-37) which is different than the merchants (for example Target).

Regarding claim 36, "...wherein the item has bee acquired by the second party from the first party ...", Examiner points out that the products at the promotional site (e.g. Cambridge Classic Shirts or Hilliard and Hanson Shoes or "Joy of Cooking", see fig. 35) are products of the first site (e.g. Target, amazon.com etc.).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YR

/Yehdega Retta/
Primary Examiner, Art Unit 3622